

## ORDINANCE NO. 24-2013

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE CANCELING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY AND PULTE HOME CORPORATION

**WHEREAS**, on October 25, 2006, the City Council adopted Ordinance No. 40-2006, entering into a Development Agreement with Pulte Home Corporation (Pulte) regarding the development of parks within the Laguna Ridge Specific Plan, principally their properties known as Del Webb (EG-03-479) and Zraggan (EG-03-480 and EG-11-005); and

**WHEREAS**, on September 14, 2011, the City Council adopted the Laguna Ridge Supplemental Parks Fee, providing an alternative process for funding the acquisition, design, and construction of parks facilities within Laguna Ridge; and

**WHEREAS**, the parties to the Development Agreement agree that all terms of the original Development Agreement have been or will be satisfied through a subsequent agreement entered into by the parties, and, consistent with that agreement, desire to cancel the Development Agreement and utilize the Laguna Ridge Supplemental Parks Fee as the mechanism to complete parks within Laguna Ridge; and

**WHEREAS**, the Planning Commission considered this matter at a duly noticed public hearing on April 5, 2012 and voted 5-0 to adopt Resolution 2012-7 recommending that the City Council cancel the Development Agreement.

**NOW, THEREFORE**, the City Council of the City of Elk Grove does ordain as follows:

#### Section 1: Purpose and Authority

The purpose of this Ordinance is to cancel the Development Agreement between the City of Elk Grove and Pulte Home Corporation as provided in Ordinance No. 40-2006. This action is authorized by Government Code Sections 65864-65869.5.

#### Section 2: Findings

The City Council takes this action based upon the following findings:

#### **California Environmental Quality Act (CEQA)**

Finding: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Government Code Section 65457 and State CEQA Guidelines (Division 6 of Chapter 3 of Title 14 of the California Code of Regulations) Section 15182.

Evidence: The proposed project is exempt from CEQA under Government Code Section 65457 and State CEQA Section 15182 (Title 14 of the California Code of Regulations). Pursuant to these provisions, if a residential development project is consistent with a city specific plan and an Environmental Impact Report (EIR) was certified for that plan, no EIR or negative declaration need be prepared for that residential project unless a) substantial changes are proposed in the project which would require major revisions to the previous EIR, b) substantial changes occur with respect to the circumstances under which the project will be undertaken, which will require major revisions of the previous EIR, or c) new information of substantial importance shows that the project will have new or more severe significant environmental effects not discussed in the previous EIR or that there are feasible mitigation measures available to reduce impacts that were not considered feasible in the previous EIR or that the applicant declines to adopt. The City of Elk Grove certified an Environmental Impact Report for the Specific Plan in December 2004.

The Development Agreement has been superseded by the adopted Parks Fee, which provides the financing for acquisition, design, and construction of the various parks facilities within the Specific Plan. The requirements of the underlying developments (e.g., requirements of the Specific Plan, project-specific conditions of approval, Laguna Ridge Specific Plan mitigation monitoring and reporting program) will still apply. None of the conditions listed above apply and the project does not have any impacts peculiar to the project that were not analyzed in the Specific Plan EIR.

Therefore, this project qualifies for the identified exemption and no further environmental review is required.

### **Development Agreement**

#### Findings:

1. Cancellation of the Development Agreement is consistent with the General Plan objectives, policies, land uses, and implementation programs and any other applicable specific plans.
2. Cancellation of the Development Agreement is in conformance with the public convenience and general welfare of persons residing in the immediate area and will not be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City as a whole.
3. Cancellation of the Development Agreement will promote the orderly development of property or the preservation of property values.

Evidence: The cancellation of the Development Agreement is appropriate because:

1. The action is consistent with the General Plan and Specific Plan because the City has established an alternative funding and development process for parks through the adoption of the Parks Fee. This fee will provide the financing for acquisition, design, and construction of the various parks facilities within the Specific Plan.

2. The action provides for the public convenience and general welfare because the City has established an alternative funding and development process for parks within the Specific Plan (the Parks Fee) and this process ensures that park facilities are provided for the benefit of residents within the Specific Plan.
3. The action, in being superseded by the adopted Parks Fee, ensures the orderly development of the Specific Plan by ensuring that parks facilities are, ultimately, constructed.

### Section 3: Action

The City Council hereby cancels in full the Development Agreement between the City of Elk Grove and Pulte Home Corporation, as provided in Ordinance No. 40-2006. The City Manager and City Clerk of the City of Elk Grove are hereby authorized and directed to take all actions reasonably necessary to implement and effectuate this cancellation of the Development Agreement on behalf of the City of Elk Grove, including, without limitation, the execution and recording of all necessary documents to implement and effectuate the cancellation and release of the Development Agreement.

### Section 4: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

### Section 5: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

### Section 6: Savings Clause

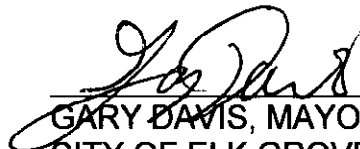
The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be

instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

**Section 7: Effective Date and Publication**

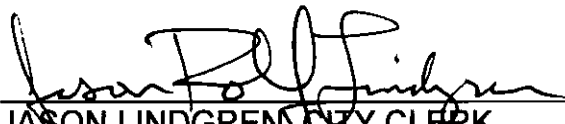
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).


**ORDINANCE:**       **24-2013**  
**INTRODUCED:**     November 13, 2013  
**ADOPTED:**         December 11, 2013  
**EFFECTIVE DATE:** January 10, 2014

  
\_\_\_\_\_  
GARY DAVIS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

  
\_\_\_\_\_  
JONATHAN P. HOBBS,  
CITY ATTORNEY

Date signed: December 17, 2013

**CERTIFICATION  
ELK GROVE CITY COUNCIL ORDINANCE NO. 24-2013**

STATE OF CALIFORNIA       )  
COUNTY OF SACRAMENTO    )     ss  
CITY OF ELK GROVE         )

*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on November 13, 2013 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on December 11, 2013 by the following vote:*

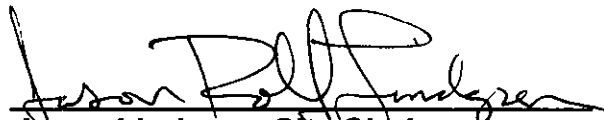
**AYES :**       **COUNCILMEMBERS:**     *Davis, Detrick, Hume, Trigg*

**NOES:**       **COUNCILMEMBERS:**     *None*

**ABSTAIN:**   **COUNCILMEMBERS:**     *None*

**ABSENT:**    **COUNCILMEMBERS:**     *Cooper*

*A summary of the ordinance was published pursuant to GC 36933(c) (1).*

  
**Jason Lindgren, City Clerk  
City of Elk Grove, California**